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on which to fall. The champions selected to conduct or to fight the nation's battles, are considered the authors of the disgrace. They have been *beaten*. That is enough. They must expiate their offence; perhaps by their blood. So the vanquished of other species, return from the combat to receive the reproaches, if not the blows of their master. So the *pacha*, in Turkey, comes back from an unsuccessful expedition, and lays down his head at his despot's feet. So the victorious hero of Marathon, returned from Paros, and ended his days in a prison. So it has been the world over. Success is glory, defeat is disgrace; it may be crime! Oh! the principle of honour. It sheds blood for glory; it sheds blood for disgrace. How unlike the principle of Christian charity! How unlike the principle of justice!

ARTICLE IV.

CRITICAL NOTICES.

BY THE EDITOR.

1.—*Report of M. de Lamartine, on the subject of Punishment by Death.*

M. de Lamartine, known in this country as a celebrated French poet, and beginning to be no less distinguished for his philanthropic views, than for his poetic genius, was appointed one of a Committee to adjudge the premiums offered by the Society of Christian Morals, for the best essays on the Abolition of Punishment by Death. In presenting the decisions of the Committee, to the Society at their meeting in April last, he took occasion to express his own thoughts on the same general subject. His remarks may be found, translated, in the New York Commercial Advertiser of June 10th.

The discussion of the subject of capital punishment, involves a consideration of the powers of which society may avail itself to answer its ends, before it can pretend to plead the necessity of taking human life. It is for this reason, that we deem a brief notice of M. de Lamartine's Report not irrelevant to the object of this

work. Several considerations might be mentioned to show that punishment and fighting are different things. War must be narrowed down very much from that which is generally practised, thoughtlessly justified, and even commended, before it can claim to stand upon the same ground with Capital Punishment, as inflicted in most civilized countries. Still the *principle* on which both are considered, by candid and thinking men, as sometimes justifiable, is the same. It is necessity—the necessity of sustaining government. War and Capital Punishment are alleged to be necessary in certain *extreme* cases, as a *last* resort.

Admitting that this is so, the legislator is bound in each individual case, to ask himself whether, in the actual circumstances of the case in question, any other means adequate to the purposes of society exist, before he proceeds to decree that which he pretends to justify *only when such other means fail*. Society as a whole, is bound continually to ask itself similar questions.

The general course of M. de Lamartine's argument is this:—Whatever may have been necessary in earlier ages and ruder times, when man was more animal and less spiritual, there are in the present age preventive, corrective, and moral influences, sufficient to answer the ends of government, without resorting to punishment by death. There are particular spots in the argument, which do not, to us, feel quite firm, but as a whole it may be termed, as it has been, a “noble and eloquent argument.”

The opening paragraph of the Report is worthy of all consideration. It is as follows:—

“Long ere the legislator can form into a law any social conviction, philosophers are permitted to discuss it. The legislator is patient, because he must not make a mistake; his error falls back upon the whole of society. A society may be destroyed by abstract principles and truths, just as certainly as it may be undermined by error and crime. Let us never forget this; let us not be irritated by its slow and timid movements. Let us make allowance for its manners, habits, and even for its prejudices. Let us consider society as a traditional superstructure upon which every thing rests; that we must not put forth our hand to touch it, but with fear and trembling; that millions of lives, that property, and rights, repose under the shadow of this vast secular edifice, and that one stone removed before the proper time, would cause it to crush generations in its fall. Our duty is to enlighten society, and not to execrate it; he who execrates it, does not comprehend it. The most sublime theory that

would teach men to despise the law, and to rebel against it, would be less profitable to mankind, than the respect and obedience which the citizen owes to that which the philosopher condemns."

These truths, we believe them such, seem but the voice of Revolutionary France. Her fear and frenzy yet scarcely gone, she points to the fiery ordeal whence she has emerged, and proclaims:—

"The legislator must be patient, because he must not make a mistake; his error falls back upon the whole of society. A society may be destroyed by abstract principles and truths."

Sublime theory, with direst anarchy, are written in blood on many pages of her history.

The following extracts from the Report, will put the reader in possession of the nature of the argument:—

"We do not wish to violate any truth, in order to redress an error. We do not believe that society never had, or thought she had, the right of life or death over man. We believe—and it is not necessary for us to say that our sentiments on this subject are only individual—that she does not possess that power any longer. Society, in our opinion, being necessary, she has all the rights or power necessary to her existence; and if, in the commencement of her existence, owing to the imperfection of her primitive organization, and the destitution of her repressive means, she thought that the right to smite the guilty was her supreme prerogative, her only means of preservation, she could smite without crime, because she did it in following the dictates of her conscience. Is this the case in the present age? And in the actual state of a community armed with a force sufficient to repress and punish without spilling blood, enlightened with sufficient intelligence to substitute moral sanction, corrective sanction, for the sanction of killing, can such a community legitimately continue to kill? Nature, reason, and science, unanimously respond, no. The most incredulous hesitate. For them, at least, there is doubt. But the moment the legislator doubts of a power so terrible, from the time he shrinks back with horror at contemplating the bloody scaffold, and asks himself if in punishing a crime he has not committed one himself, from that moment the punishment of death does not appertain to him. For what is a doubt that cannot be solved until after the head of a victim has rolled off the scaffold? What is a doubt upon which is suspended the axe of the executioner, and which lets it fall on the life of a man? This doubt, gentlemen, if it is not already a crime, is very near being remorse!

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Without doubt, gentlemen, there must be a sanction to the laws ; but this sanction is of two kinds ; a material sanction, and a moral sanction. These two sanctions ought to concur, and at the same time satisfy society. But in proportion as that society is more or less advanced in its views of spirituality and perfection, this sanction of the law will partake more of the nature of one or the other of these penalties—that is to say, it will be more material or more moral—more afflictive or more corrective—the punishment inflicted by the law will be applied more to the body, or more to the mind. Thus primitive legislatures killed ; Christian, and more enlightened legislatures take away the sword, or make it glitter more rarely in the eyes of the people ; and then dash it away entirely, and substitute for the bloody punishment, imprisonment, which preserves society—shame, which marks the forehead of the culprit ; solitude, which forces him to reflect ; teaching, which enlightens him ; labour, which subdues the body and spirit of the criminal ; repentance, which at length regenerates him.

Behold, then, gentlemen, the nature of the two laws between which we have to choose for ourselves. Now, to choose, we only have to decide if in our actual state of protection and social administration, we have not, independent of the scaffold, a superabundant defensive and repressive power to prevent crime, or intimidate the criminal.

This power is divided into two natures—corporeal strength, and moral strength. In corporeal, or material strength, society has for its preservation, in the first place, its organization, its government, an eye ever open, a hand ever stretched out over her, to act, defend, and provide for her. She has standing armies, a power every where present to compel such as resist. She has her police, open or secret, her inspectors and municipal officers, invested with power of protection and vigilance, over the most distant village in the territory. She has her *gendarmerie*, always armed and ready to arrest the evil doer. She has tribunals in all the chief places in her provinces, to give means, interpretation, and efficiency to the laws. She has, in fine, her roads inspected, streets lighted, walls, inclosures, habitations inviolable, transportations, prisons, galleys, and vast arsenals with materials for her defence.

In moral strength is society more unarmed ? There is religion in the first place, communion of spirits and of consciences, a family legislature whose code punishes crime with an eternal penalty. She is present every where, even in the night, even in desert places, and causes to be heard in solitude and in silence the inward voice of her teachings, of her promises, of her threatenings. Behold then the legislature with its laws, its prosecution of offence, its juries, a body feared even by the innocent, and before whom it is already a punishment to be obliged to appear. Behold opinion, this mutual judge of men among themselves, this judge at first unjust, but afterwards infallible, who supplies both religion and law,

and rewards every one according to their works. There is shame, that punishment of opinion which pursues, brands, tortures, even the acquitted criminal, and which, if he escapes the judge, makes to him a judge of every look. There is the press, and the publicity she gives to the name, the act, the punishment; giving to human chastisement the ubiquity of vengeance from heaven. These are the progressive lights, the universal teachings, the increasing morality, the new moral strength of society against the aggressions of crime.

Who will dare to say that this arsenal is insufficient? Custom alone, or fear.

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But there is one grave objection made to us. This objection is incapable of a reply, because it excludes reasoning. Do you think yourselves wiser than your forefathers? Do you suppose that justice dates itself from your days? Punishment of death is the instinct of humanity, the punishment of death is the instinct of divine justice; for every where man wrote it under the inspiration of its nature; the codes of all nations seem to have been written with the point of a dagger.

We reply: This is true. The punishment of death is the brutal instinct of material justice, the instinct of the arm which raises itself and strikes because some one has struck it. And it is because this is true with respect to humanity in a state of instinct and of nature, that it is false for society in a state of reason and moralization. What has been the work of civilization? To make, in every thing, the reverse of nature; to constitute a spiritual nature, divine, social, in an inverted sense from the brutal nature; to have done to man, and to society, the collective image of man, precisely the contrary to what carnal, instinctive humanity would have done. Religion and civilization are nothing else than the successive triumphs of the divine principle over the human principle. Listen to all that nature says and all that the law says. Nature says to man, the earth is for thy wants; there is a tree loaded with fruit, thou art hungry—eat! The social law says to him, die at the foot of the tree without touching its fruit. God and the law avenge the despoiler of property. Nature says to man, choose among these women her whose beauty seduces you, and when her beauty shall be faded, forsake her and attach yourself to another. The social law says to him, thou shalt have but one companion, that the family may be established, drawn together by an indissoluble cord, and insure the life, the love, and the protection of the children! Nature says to man, demand blood for blood, kill those who kill. A law more perfect says to him, vengeance belongs to God alone, for he only is infallible; human justice is only defensive; thou shalt not kill; and I, to keep before thine eyes this doctrine of the inviolability of human life, I will kill no more.

Look, also, gentlemen, relatively to crime, the difference in two societies, according to their adoption of one or the other of these

principles. A judge deciding a matter without appreciating it; a hangman that is brought out in public, to teach the people that they must never kill; a crowd at the feet of one whose blood they spill, to inspire them with horror of blood; this is society according to nature!—A judge appreciating crime, and graduating the punishment according to its enormity; vengeance remitted to the supreme judge and the conscience of the culprit; a people whose indignation against crime does not change into pity for him that is punished; a dungeon which closes to forbid forever any society to the criminal; and under the vaults of that dungeon, humanity, yet present, imposing labour and correction on the culprit, God inspiring him with penitence and resignation, and repentance leaving him, perhaps, hope. Such is society according to the gospel, according to sense, according to civilization. Choose ye! For ourselves, our choice is made.”

2.—*History of Marcus Aurelius, Emperor of Rome.* By Mrs. L. H. Sigourney, Hartford:—Belknap & Hamersley, 1836. pp. 122, 18mo.

The peculiar merit of this book consists in presenting to the minds of the young, good and virtuous qualities to be emulated, rather than heroic and brilliant exploits to be admired.

The obedience of Marcus Aurelius to his parents, his reverence for the aged, his kindness to the poor, his paternal affection, his gratitude to his instructors, his humility, his generosity, his control of his temper, his patience, his forgiveness of injuries, his love of truth, knowledge, and wisdom, are all set forth and illustrated in a manner adapted to make a most salutary impression on the minds of those for whom the book is designed. Mrs. Sigourney remarks in her preface, that this book was commenced as an assistant to parents, in domestic education, but that in its progress more of collateral history interwove itself than had been at first anticipated. It may, therefore, she observes, be also adapted to primary schools. In the opinion of those who would educate youth to benevolence, justice, and peace, rather than to glory, beginning the study of history with text books on the plan of this little work, is beginning it in the right way.